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**NEW LAWS IN 2012 AFFECTING
HOMEOWNERS ASSOCIATIONS**

The following new laws affect common interest developments/associations directly or indirectly. They are effective on January 1, 2012, unless otherwise stated.

CALIFORNIA STATUTES

1. BOARD MEETINGS

Senate Bill 563 amends Civil Code Section 1363.05 to: (a) allow Board meetings to be conducted by *teleconference* attended by Board Members and members if a physical location is announced and at least one Board Member is present at the physical location, (b) prohibit Board Meetings from being conducted by *e-mail*, except for emergency meetings by unanimous written consent by all Board Members, (c) shorten notice for *Executive Session* meetings from 4 days to 2 days, (d) prohibit the Board from considering any matter at a meeting that has not been noticed as an action item at the meeting. The Bill defines "*item of business*" to include any action within the authority of the Board, except those actions delegated to other persons including the managing agent, officer or committee of the Board and "*meeting*" as a congregation of a majority of the Board at the same time and place to hear, discuss or deliberate upon any item of business or a teleconference in which a majority of the Board participates from different locations, including one physical location at which one Board Member will be in attendance.

This Bill also amends Civil Code Section 1365.2(H) to require that agendas of executive sessions be made available for inspection by members, at their written request.

2. ELECTRIC VEHICLE CHARGING STATIONS

_____ SB 209 adds Section 1353.9 to the Civil Code and prevents a homeowner's association from prohibiting or unreasonably restricting the installation or use of electric vehicle charging stations. However, reasonable restrictions may be placed upon the installation and use of electric vehicle charging stations and a homeowner's association may require its approval before a homeowner may

install an electric vehicle charging station, but such approval must follow the same process as any other architectural modification request. Additionally, a homeowner may seek approval to have an electric vehicle charging station placed in a common area or an exclusive use common area and the homeowner's association must approve such a request if the homeowner complies with a number of requirements. The new law also provides that the homeowner would be responsible for various costs required to install and maintain the charging station.

3. RECYCLING

AB 818, known as the Renter's Right to Recycle Act, adds Section 42913 to the Public Resources Code relating to recycling. This bill requires the owner of multi-family dwellings of 5 or more units to arrange for recycling services. This bill appears to regulate owners of "rental units" rather than community associations. We will have to see if the statute is amended in the future to require community associations to provide recycling.

4. RENTING/LEASING OF SEPARATE INTEREST

Senate Bill 150 was signed into law by the Governor and becomes effective on January 1, 2012. The Bill adds Section 1360.2 to the Civil Code and provides that an owner will *not* be subject to rental prohibitions or restrictions unless the governing document provision or amendment to the governing documents was in effect prior to the date the owner acquired title to his or her condominium or lot. ***The new law only applies to provisions in governing documents or amendments to governing documents which go into effect on or after January 1, 2012.*** That means if you already have rental restrictions, those restrictions are enforceable against all owners. After January 1, 2012, any new rental restrictions shall only apply to those persons who acquire title after the amendment. The purpose of the law is to protect the rights and expectations of owners who had the right to rent their units or lots when they became owners. Amendments to the governing documents after an owner has the right to rent do not take away the owner's right to rent. The new law does *not* affect rental restrictions which are in effect/recorded as of December 31, 2011.

The right to rent is not terminated if a transfer occurs which makes the property exempt for purposes of reassessment under Revenue and Taxation Code Sections 62 or 480.3 or in the case of a probate transfer. Section 62 includes intrafamily transfers from a parent or parents or legal guardian to a minor child or children or among minor siblings following the death of their parent or parents, a transfer into a trust, creation of a joint tenancy, etc.

5. REQUESTS FOR DOCUMENTS; FEES

_____ AB 771 amends Civil Code Section 1368 and adds Section 1368.2 to the Civil Code. Current law provides that an owner of a separate interest must provide certain documents to a prospective buyer. Current law also provides that a homeowner's association must provide those documents to the owner of a separate interest upon the owner's request. This bill adds to the list of documents a ***statement that describes any rental prohibition*** and its applicability. This bill also adds to the list of documents that may be requested by a purchaser, a copy of the ***minutes of the board of directors***

meetings for the previous twelve months, except for the minutes of an executive session. This bill authorizes the homeowner's association to charge a reasonable fee for complying with the request, so long as the fee is based on the actual costs incurred by the association to procure, prepare, reproduce, and deliver the requested documents. Additionally, this bill will require that the homeowner's association provide a **written or electronic estimate of the fees to be charged for providing any requested documents**. Section 1368.2 is added to the Civil Code to provide the form to be used by the homeowner's association to communicate the written or electronic estimate.

The documents may be posted on the association's internet website.

6. SMALL CLAIMS

SB 221 amends Section 116.221 of the Code of Civil Procedure to increase the jurisdiction for Small Claims Court to \$10,000 for individuals but not for corporations. The significance of this is that homeowners can sue for a larger amount but the Association cannot sue for more than \$5,000.

BILLS VETOED BY THE GOVERNOR

7. ARTIFICIAL TURF

SB 759 was vetoed by the Governor. This bill would have prevented associations from barring artificial turf, even though several brands of artificial turf were proven to contain lead.

BILLS THAT DIDN'T MAKE IT TO THE GOVERNOR

8. ASSESSMENT COLLECTION

The original sponsor to AB 2502 withdrew its support of the bill after the author of the bill was forced to amend it to address association concerns so the bill never made it to the Governor. The bill would have required payment plans to be announced in open session of the Board, would have permitted attorneys to be present at meetings requested by owners to discuss payment plans with the Board, would have prohibited management and other representatives of the association from discussing payment plans with owners without the owner's consent, and would have required any third party collection agent to whom the debt is assigned to conduct collection procedures in accordance with a payment plan previously negotiated.

9. APPLICATION OF ASSESSMENT PAYMENTS

AB 561 is a 2 year bill and requires delinquent payments to be paid to the association before the collection agent. No further hearing will be held on this bill until January 2012.

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